

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	:	Chapter 11 Case No.
LEHMAN BROTHERS HOLDINGS INC., et al.	:	Case No. 08-13555 (SCC)
Debtors.	:	Jointly Administered
	:	
FIRSTBANK PUERTO RICO,	:	Adversary Proc. No.
Plaintiff,	:	10-04103 (SCC)
- against -	:	
BARCLAYS CAPITAL INC.,	:	
Defendant.	:	
	:	

**SECOND AMENDMENT TO CONFIDENTIALITY STIPULATION
AND PROTECTIVE ORDER BETWEEN
BARCLAYS CAPITAL INC. AND FIRSTBANK PUERTO RICO**

This Second Amendment (the “Second Amendment”) to the Confidentiality Stipulation and Protective Order dated April 5, 2011 [Adversary Dkt. #6] (the “Protective Order”), as amended by that certain amendment among the undersigned, dated July 8, 2013 and entered by this Court on July 19, 2013 [Adversary Dkt. #76] (the “First Amendment,” and the Protective Order as so amended, the “Amended Protective Order”), is entered into by and between the undersigned counsel, acting for and on behalf of their respective clients, FirstBank Puerto Rico (“FirstBank”) and Barclays Capital Inc. (“Barclays”), and by the undersigned counsel acting for and on behalf of non-party James W. Giddens (the “Trustee”), as Trustee for the liquidation of Lehman Brothers Inc. (“LBI”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* (“SIPA”), Case No. 08-01420 before this Court (the “SIPA Proceeding”), solely with respect to the provisions of the Amended Protective Order and this

Second Amendment that are applicable to the Trustee as provided below.

WHEREAS, FirstBank is the holder of a disputed customer claim, numbered 800003257 (the “Customer Claim”) in the SIPA Proceeding.

WHEREAS, the Trustee has filed a motion in the SIPA Proceeding to uphold his determination of the Customer Claim and expunge any objection thereto, dated June 26, 2014, and related pleadings in support thereof [SIPA Proceeding Dkt. ##9248-9250] (collectively, the “Motion to Expunge”).

WHEREAS, on June 26, 2014, the Trustee and the Securities Investor Protection Corporation (“SIPC”) filed an *ex parte* motion seeking authority to file the Motion to Expunge and related pleadings under seal (the “Motion to Seal”) [SIPA Proceeding Dkt. #9251].

WHEREAS, on July 31, 2014, the Court granted the Motion to Seal [SIPA Proceeding Dkt. #9523] (the “Sealing Order”), which provided, among other things, that the Trustee and SIPC were to promptly file redacted versions of the Motion to Expunge and related pleadings on the docket in the SIPA Proceeding.

WHEREAS, the Trustee and SIPC filed redacted versions of the Motion to Expunge and related pleadings on the SIPA Proceeding docket on August 5, 2014.

WHEREAS, FirstBank has filed its motion for summary judgment and opposition to the Motion to Expunge, dated July 25, 2014, and related pleadings in support thereof [SIPA Proceeding Dkt. ##9483-9487] (collectively, the “FirstBank Opposition”), while the Motion to Seal was pending and prior to entry of the Sealing Order.

WHEREAS, FirstBank filed two of its pleadings in the FirstBank Opposition (its memorandum of law and Rule 7056-1 statement [SIPA Proceeding Dkt. ##9486-9487] (the “Sealed FirstBank Pleadings”)) under seal, pursuant to the pending Motion to Seal.

WHEREAS, FirstBank, Barclays and the Trustee previously executed the First

Amendment in order to permit the use of certain discovery materials previously produced in this Action and set forth in Exhibit A to the First Amendment (the “Selected Discovery Materials”) in connection with the Motion to Expunge, under the terms and conditions set forth in the First Amendment.

WHEREAS, FirstBank, Barclays and the Trustee desire to further amend the Protective Order to permit the use of certain of the Selected Discovery Materials without the confidentiality restrictions of the Amended Protective Order, under the amended terms and conditions set forth herein.

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND UPON COURT APPROVAL HEREOF, IT IS ORDERED THAT:

1. Definitions. Capitalized terms used but not defined in this Second Amendment shall have the meaning set forth in the Amended Protective Order.
2. Waiver of Confidentiality Restrictions as to Certain Selected Discovery Materials. Any restrictions in the Amended Protective Order as to Discovery Materials designated as “Confidential” shall not apply to the Selected Discovery Materials set forth on Exhibit A hereto. Such Discovery Materials may be used in connection with the Motion to Expunge and the FirstBank Opposition as if they were not designated “Confidential,” including without limitation their filing with this Court in the SIPA Proceeding without any redaction or sealing thereof.
3. Filing of Unredacted Pleadings Pursuant to this Second Amendment. Upon approval and entry of this Second Amendment by the Court, the terms of the Sealing Order shall not apply as to any use or citation of the Selected Discovery Materials set forth on Exhibit A hereto, and the Trustee and SIPC shall file unredacted versions of the Motion to Expunge and

related pleadings, and FirstBank shall file unredacted versions of the Sealed FirstBank Pleadings, in each case on the SIPA Proceeding docket.

4. Except as amended herein, all terms and conditions of the Amended Protective Order shall remain in full force and effect.

5. The Trustee is executing this Second Amendment solely with respect to the application of the Amended Protective Order to the Motion to Expunge and the FirstBank Opposition. All parties hereto acknowledge and agree that neither the Trustee nor LBI is a party to the Action.

6. This Second Amendment may be executed in counterparts and by facsimile or electronic transmission of a scanned signature. This Second Amendment shall become effective as a stipulation among the undersigned immediately upon its execution.

[continued on the following page]

7. Counsel executing this Second Amendment warrant and represent that they are authorized to do so on behalf of themselves and their respective clients.

Dated: New York, New York
August 5, 2014

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IT IS SO-ORDERED:

August 11, 2014
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

**SELECTED DISCOVERY MATERIALS
COVERED BY SECOND AMENDMENT
TO PROTECTIVE ORDER**

Unredacted versions of the following documents filed in this Adversary Proceeding:

1. Stipulations of Fact – the following exhibit to the stipulation:
 - a. Exhibit 13 – Sep. 1, 2008 MTM statement received by FirstBank (FB ESI 0000440-444)
2. The following exhibits to the Declaration of Judith R. Cohen in Support of Plaintiff's Motion for Summary Judgment, dated September 13, 2012 [Adversary Dkt. #25]:
 - a. Cohen Exhibit 3 – Securities Account Control Agreement between LBI and LBSF (BARCAP 00274700-706)
 - b. Cohen Exhibit 25 – SIPC Customer Claim Form Lehman Brothers Inc. – filed by FirstBank (FB-HC 00011820-11875)
 - c. Cohen Exhibit 33 – Deposition Transcript of James Hraska
 - d. Cohen Exhibit 40 – Sep. 25, 2008 Email from FirstBank to LBSF terminating swap agreement (FB-HC 00011947-11950)
3. The following exhibit to the Declaration of Judith R. Cohen in Opposition to Barclays Capital Inc.'s Motion for Summary Judgment, dated October 15, 2012 [Dkt. #39]:
 - a. Cohen Exhibit 47 – LBI 11/29/07 Securities Summary (BARCAP 00279945)
4. The following exhibit to the Declaration of Boaz S. Morag in Support of Defendant Barclays Capital Inc.'s Motion for Summary Judgment, dated September 13, 2012 [Dkt. #16]:
 - a. Morag Exhibit 51 – Email between Clifford Chance and Weil, Oct. 31, 2008 (FB ESI 1227598-1227604)
5. The following MTS stock records produced by Barclays Capital Inc.:
 - a. BARCAP 00279939-00279942; 00279945-00279949; 00279952-00279958; 00279962